

1133279-0028

REMARKS

Upon entry of the amendments herein, claims 21, 22, 25-29, 31-34, 37-54, 62 and 71-79 remain pending in the application. Claims 21, 25, 47, 50 and 51 have been amended; and claims 23, 24, 35, 36 and 55-61 have been cancelled. No new matter has been introduced by any of the amendments herein.

Applicant acknowledges with gratitude the time taken by Examiners Chattopadhyay and Isabella to participate in an interview in Alexandria with two of his representatives to discuss the outstanding issues; the Examiners' input is much appreciated. The amendments and remarks herein are reflective of proposals made to Examiner Chattopadhyay on an informal basis prior to the interview and of what was discussed and agreed upon during the interview. Said amendments and remarks are in keeping with the recently published Final Rule concerning what may be entered in a supplemental response (37 C.F.R. §1.111). Also, as required in the Interview Summary issued following the interview, the remarks following include the substance of the interview.

Claims 47-54 remain rejected as being anticipated by US 6,013,854 to Moriuchi. During the interview, it was pointed out to the Examiners that the intent of claim 47 is to recite a stent having only one "helically advancing pattern," which feature distinguishes it from the two-helix structure taught by

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Moriuchi. However, the Examiners maintained that the "comprising" language currently found in pending claim 47 does not exclude the possibility of more than one helical element, thus causing the claim to read on the teaching of Moriuchi. As agreed during the interview, the transition elements "comprised of" (first instance only) and "comprising" in claim 47 have been replaced with "consisting essentially of." It was the understanding of Applicant's representatives during the interview that this amendment would be looked upon favorably by the Examiners. The amendments to claims 50 and 51, dependent from claim 47, are among those originally presented to the Examiner on an informal basis just prior to the interview, and it was agreed during the interview that these amendments were acceptable.

In view of the amendments herein to claim 47, there can be no ambiguity as to the distinction between the stent described in claims 47-54 and the stent disclosed by Moriuchi. There is no way that the Moriuchi disclosure can be said to teach each and every element of these claims, and the rejection must be withdrawn.

Claims 21-23, 26-29, 31-36 and 55-61 stand rejected as being obvious over US 5,925,061 to Ogi et al. in view of the same Moriuchi patent. In the last Office Action, the Examiner indicated claims 24 and 25 to be allowable save for their

dependence from rejected claim 21. Applicant's informal proposals to the Examiner prior to the interview to amend claim 21 by incorporation of the limitation recited in claim 24 and to amend the dependency of claim 25 were triggered by this acknowledgement.

During the interview, the rejection of claims over the combination of Ogi and Moriuchi was discussed. In particular, Applicant's representatives requested clarifications from the Examiners concerning certain of the points made in rejecting these claims, and the Examiners complied. In any event, the amendment herein to claim 21 addresses the Examiner's concerns regarding it and all pending claims dependent therefrom, and the cancellation of claims 35, 36 and 55-61 renders moot their rejection over the cited combination of references.

The amendments herein to claims 21 and 25 are identical to those previously proposed and then further discussed and agreed upon during the interview. Amended claim 21 is thus effectively claim 24 "rewritten in independent form including all of the limitations of the base claim and any intervening claims." Furthermore, as also discussed during the interview, claims 22, 26-29 and 31-34 depend from claim 21, which is no longer a rejected base claim, and they are also allowable.

Whether or not Ogi teaches the specific features recited in claims 22, 26-29 and 31-34, the reference does not teach the

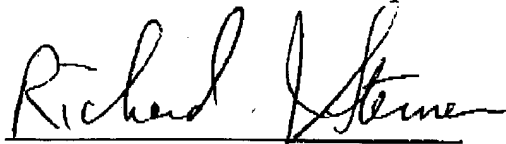
combination of features recited in amended claim 21 and acknowledged by the Examiner to describe a patentable stent. And, for the same reasons that Moriuchi cannot make up for the fundamental deficiencies of Ogi with respect to the stent recited in claims 21 and 25, Moriuchi in combination with Ogi is ineffective in rendering unpatentable the stents described in the other claims dependent from claim 21.

In the last Office Action, the Examiner had indicated claims 37-46, 62 and 71-79 to be allowable in their current form. Claim 24 (now in independent form as claim 21) and claim 25 were merely objected to as being dependent from a rejected base claim. In light of the amendments and arguments herein, claims 21, 22, 26-29, 31-34 and 47-54 are free of the cited art and are also in condition for allowance. Reconsideration and allowance of the application with pending claims 21, 22, 25-29, 31-34, 37-54, 62 and 71-79 are respectfully requested. Should any other matters require attention prior to allowance, it is requested that the Examiner contact the undersigned.

The Commissioner is hereby authorized to charge any fee which may be due for any reason in connection with this communication to Deposit Account No. 23-1703.

Date: March 8, 2005

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Richard J. Sterner", is written over a horizontal line.

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